

DISTRICT OF NEVADA

Case No.: 3:17-cv-00077-MMD -WGC

Order

Re: ECF No. 121

Defendants

On screening, Plaintiff was allowed to proceed with a single Eighth Amendment conditions of confinement claim against defendants Deborah Comparoni, Vern Harlow, Gary Gonzales, William Shaw and Summer (or Sommer) Westbay. (ECF Nos. 4, 39.) Defendants Gonzales and Shaw filed a motion for summary judgment. (ECF No. 17.) Notably, Plaintiff failed to file a response to that motion despite being given several extensions of time. (ECF No. 27, 63.) Harlow was dismissed without prejudice for failure to timely serve him, and summary judgment was granted in favor of Gonzales and Shaw. (*See* ECF Nos. 85, 89.) Then, on April 17, 2019, Comparoni and Westbay filed their motion for summary judgment. (ECF No. 102.) On May 21, 2019, Plaintiff filed a motion for an extension of time to file his response. (ECF No. 107.) The court gave Plaintiff until July 15, 2019, to file his response. (ECF No. 109.) The court gave Plaintiff a second extension of time, until August 20, 2019, to file his response to the motion. (ECF No. 114.) On August 16, 2019, Plaintiff filed another request for an extension

1 of time, which the court granted, giving Plaintiff until November 7, 2019, to file his response.
2 (ECF No. 116.) In this order, in bold and all caps, the court stated: "**THERE SHALL BE NO**
3 **FURTHER EXTENSIONS GRANTED.**"


4 Plaintiff did not file a response by November 7, 2019. The court checked the docket
5 again on November 8, 2019, and then again the morning of November 12, 2019. No response
6 had been filed. The court issued its report and recommendation that the motion for summary
7 judgment filed by Comparoni and Westbay be granted. The court noticed that after the report and
8 recommendation was docketed, Plaintiff had filed another request for an extension of time to file
9 his response to the motion for summary judgment. (ECF No. 121.) It must have been filed as the
10 report and recommendation was being electronically docketed.

11 Plaintiff's most recent request for an extension states that he had to request a "streamlined
12 request of up to 30 days extension on his appeal" in the Ninth Circuit, case 19-15613, and
13 Plaintiff is still working on his appeal. It is unclear what this appeal has to do with his filing in
14 this case. Defendants filed their motion in *April*. Plaintiff was given several extensions of time to
15 file a response. In fact, in total he had just shy of *seven months* to file a response to the motion.
16 When he last filed a request for an extension of time (in August), the court granted him nearly
17 three more months to file a response, and expressly admonished him that there would be *no*
18 *further extensions*. Yet, he did not file his response, and he waited until *after* the deadline to seek
19 another extension of time. Moreover, this is not the first time Plaintiff has failed to timely follow
20 the court's orders. Despite being given multiple extensions of time with respect to the motion
21 filed by Gonzales and Shaw, he similarly failed to timely file a response, only to seek yet another
22 extension of time after the extended deadline had already passed.

1 While the court typically affords pro se inmate litigants some degree of latitude in the
2 timeliness of their filings, Plaintiff has pushed the limits beyond that which the court can accept
3 as reasonable and the court cannot countenance his dilatory conduct. Therefore, Plaintiff's
4 motion for yet another extension of time to file a response to the motion for summary judgment
5 (ECF No. 121) is **DENIED**.

6 **IT IS SO ORDERED.**

7 Dated: November 12, 2019

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10 William G. Cobb
11 United States Magistrate Judge
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